

HOUSE BILL REPORT

HB 2122

As Reported by House Committee On:
Local Government
Finance

Title: An act relating to real estate as it concerns the local government authority in the use of real estate excise tax revenues and regulating real estate transactions.

Brief Description: Concerning real estate as it concerns the local government authority in the use of real estate excise tax revenues and regulating real estate transactions.

Sponsors: Representatives McBride, Nealey, Peterson, Fey, Muri, Ryu, Walsh and Springer.

Brief History:

Committee Activity:

Local Government: 2/19/15 [DP];

Finance: 2/23/15, 2/24/15 [DP].

Brief Summary of Bill

- Strikes statutory provisions authorizing counties and cities, until December 31, 2016, to use proceeds from real estate excise taxes for qualifying capital projects or debt service.
- Grants new authority to counties and cities that impose real estate excise taxes to use the greater of \$100,000 or 25 percent of available funds, not to exceed \$1 million per year, for the maintenance of applicable capital projects, provided certain conditions are met.
- Establishes new provisions concerning local government regulation of real estate seller disclosures, the listing or sale of real property, and seller disclosure forms.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

Majority Report: Do pass. Signed by 5 members: Representatives Takko, Chair; Gregerson, Vice Chair; Fitzgibbon, McBride and Peterson.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Minority Report: Do not pass. Signed by 4 members: Representatives Taylor, Ranking Minority Member; Griffey, Assistant Ranking Minority Member; McCaslin and Pike.

Staff: Michaela Murdock (786-7289).

Background:

Real Estate Excise Tax - General Authorization for Counties and Cities.

County legislative authorities may impose an excise tax on each sale of real property in unincorporated areas of the county. Similarly, city and town (city) legislative authorities may impose an excise tax on each sale of real property within their corporate limits. The rate of these real estate excise taxes (REET I) may not exceed 0.25 percent of the selling price.

Allowable uses for the REET I proceeds, which are intended to be in addition to other funds reasonably available for capital projects, are determined by the size and applicable planning requirements of a county or city:

- In counties and cities with fewer than 5,000 residents, and in counties and cities that do not fully plan under the Growth Management Act (GMA), the proceeds must be used to finance any qualifying capital purpose or local capital improvement.
- In counties with more than 5,000 residents, and cities with more than 5,000 residents that fully plan under the GMA, the REET I revenues must, with limited exceptions, be used solely to finance and operate qualifying capital projects, as that term is defined in statute, and for housing relocation assistance for low income tenants.

Additionally, in lieu of imposing a local sales and use tax, a county or city may impose an additional real estate excise tax on each sale of real property within its jurisdiction at a rate not to exceed 0.50 percent of the selling price.

"Capital project," as defined in REET I provisions, means public works projects of a local government for planning, acquisition, construction, reconstruction, repair, replacement, rehabilitation, or improvement of specific facilities and infrastructure, including:

- streets, roads, highways, and sidewalks;
- recreational facilities;
- law enforcement and fire protection facilities;
- administrative and judicial facilities;
- river and waterway flood control projects; and
- parks.

Until December 31, 2016, a county or city may use the greater of either \$100,000 or 35 percent of available REET I proceeds, or proceeds of any excise tax imposed in lieu of sales and use tax, up to \$1 million annually, for the operation and maintenance of existing capital projects.

Real Estate Excise Tax - Additional Authorization for Fully Planning Counties and Cities.

Counties and cities that are required to plan under the GMA may impose an additional real estate excise tax (REET II) on each sale of real property within their jurisdiction that may not

exceed 0.25 percent of the selling price. Additionally, counties that choose to plan under the GMA, and the cities and towns within those counties, may impose the REET II with voter approval.

With some exceptions, revenue generated from the REET II authorization may only be used for financing capital projects specified in the capital facilities element of a comprehensive plan adopted under the GMA. "Capital project," as defined in REET II provisions, means public works projects of a local government for planning, acquisition, construction, reconstruction, repair, replacement, rehabilitation, or improvement of specific infrastructure, including:

- streets, roads, highways, and sidewalks;
- street and road lighting systems;
- storm and sanitary sewer systems; and
- planning, constructing, reconstructing, repairing, rehabilitating, or improving parks.

Until December 31, 2016, a county or city may use the greater of either \$100,000 or 35 percent of available REET II proceeds, up to \$1 million annually, for operations and maintenance of existing capital projects as defined in REET II provisions.

Until December 31, 2016, counties may also use available REET II proceeds for the payment of existing debt service incurred for capital projects, as that term is defined in REET I provisions. If a county elects to use available funds for authorized debt service payments, the total amount used for debt service, and any amounts used for operations and maintenance, may not exceed the greater of either \$100,000 or 35 percent of available REET II proceeds, up to \$1 million annually.

Real Estate Seller Disclosures.

Statutes governing real estate transactions require a seller to provide a disclosure statement on a prescribed form to the buyer as part of a residential real property sale. The form requires disclosure, based upon the seller's personal knowledge, of matters on various issues, such as title concerns, sewer and septic systems, structural concerns, and hazards such as flooding.

Municipal Research and Services Center.

The Department of Commerce is obligated by statute to contract for the provision of municipal research and services to cities, towns, counties, and special purpose districts. This directive is fulfilled through a contract with the Municipal Research and Services Center (MRSC), a nonprofit organization that provides policy, financial, and legal research and support services in accordance with the terms of the contract.

Summary of Bill:

Real Estate Excise Tax.

Temporary authorization permitting counties and cities to use proceeds from the REET I, the REET II, and any other real estate excise tax imposed in lieu of local sales and use taxes, for specified purposes until December 31, 2016, are stricken from statute.

Counties and cities that impose the REET I or the REET II are granted authority to use the greater of \$100,000 or 25 percent of available funds, not to exceed \$1 million per year, for the maintenance of applicable capital projects. In order to exercise this authority, the county or city must have adequate funds available during the six-year period following initial receipt of funds under the REET I or the REET II for the planning, acquisition, construction, reconstruction, repair, replacement, rehabilitation, or improvement of capital projects.

Real Estate Sales Requirements.

The MRSC website is required to include a specific section listing, by jurisdiction, all real estate seller disclosure requirements adopted by local governments.

Real estate seller disclosure forms adopted by a local government are required to be posted electronically by the MRSC. Forms adopted on or after the effective date of the act are not effective until posted by the MRSC. Forms adopted prior to the effective date of the act must be posted by the MRSC within 90 days of the effective date of the act.

Counties, cities, towns, and other local governments are prohibited from regulating the terms or conditions, or otherwise imposing requirements on the listing or sale of real property, unless the local requirement is a seller disclosure requirement concerning real estate excise tax, or the regulation is specifically authorized by state or federal law.

Appropriation: None.

Fiscal Note: Requested on February 19, 2015.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) None.

(In support with concerns) This bill takes a broader look at the relationship between real estate transactions and local governments. It will grant local governments some fiscal flexibility when they can show that basic infrastructure is adequately funded in a capital facilities plan required under the GMA. It also provides mechanisms to ensure better disclosure relating to real estate transactions and the regulations that come into effect when a house is sold. This bill provides a good balance between fiscal flexibility for counties and regulatory restraint. The bill is a work in progress as to language, but stakeholders are fully supportive of continuing to work on it.

(Opposed) None.

Persons Testifying: Bill Clarke, Washington Realtors; and Josh Weiss and Alison Helberg, Washington Association of Counties.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON FINANCE

Majority Report: Do pass. Signed by 14 members: Representatives Carlyle, Chair; Tharinger, Vice Chair; Nealey, Ranking Minority Member; Condotta, Fitzgibbon, Manweller, Pollet, Reykdal, Robinson, Ryu, Springer, Stokesbary, Wilcox and Wylie.

Minority Report: Without recommendation. Signed by 2 members: Representatives Orcutt, Assistant Ranking Minority Member; Vick.

Staff: Richelle Geiger (786-7175).

Summary of Recommendation of Committee On Finance Compared to Recommendation of Committee On Local Government:

No new changes were recommended.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This bill has been developed by cities, counties and realtors to make the Real Estate Excise Tax (REET) revenue to be a little bit more flexible regarding capital and maintenance projects. The bill is a work in progress.

The bill allows local governments that can prove their local infrastructure funding needs are met to use a limited amount of REET revenue to finance maintenance and operation costs associated with existing infrastructure.

The bill also includes policy that improves real estate disclosure requirements.

State REET revenue is deposited in the General Fund and is not subject to spending parameters.

About 40 percent of all local jurisdictions that collect REET revenue have taken advantage of current provisions that allow for limited maintenance and operation spending.

(Opposed) None.

Persons Testifying: Representative McBride, prime sponsor; Bill Clarke, Washington Realtors; Josh Weiss, Washington State Association of Counties; and Allison Hellberg, Association of Washington Cities.

Persons Signed In To Testify But Not Testifying: None.